NATIONAL COUNCIL OF STAKEHOLDERS

Of By & For Persons With Hearing And Speech Disabilities

September 5, 2006

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: E9-1-1 Access for People with Hearing or Speech Disabilities**

Dear Chairman Martin:

The E9-1-1 Stakeholder Council urges the Commission to act swiftly to require VRS and IP Relay providers to ensure that people with hearing or speech disabilities who use VRS and IP Relay services can call 9-1-1 and have the call connected to the appropriate public safety answering point (PSAP). The E9-1-1 Stakeholder Council also urges the Commission to immediately take action to require the provision of direct access to the E9-1-1 system for people with hearing or speech disabilities using video and text communications.

The E9-1-1 Stakeholder Council includes consumers, providers, and public safety representatives. It was established to ensure that people who are deaf, hard of hearing, or have speech disabilities have full access to emergency communications. The E9-1-1 Stakeholder Council held its inaugural meeting at Gallaudet University on May 9, 2006, and met again at the

annual National Association of the Deaf conference in Palm Desert, California on July 2, 2006, to further discuss ways to resolve current E9-1-1 access issues. In addition, members of the group met on February 18, 2006, at the Department of Homeland Security with representatives from the Department of Homeland Security, the FCC, and the Department of Justice to promote a coordinated federal effort to address and resolve E9-1-1 access issues for deaf and hard of hearing Americans.

Under your leadership, the Commission has made great strides with respect to E9-1-1 access for wireless and VoIP services, but deaf and hard of hearing people still lack access to 9-1-1 capability over the technologies upon which they increasingly rely, including VRS and IP relay, captioned telephone, instant messaging, and e-mail, as well as mobile communications devices such as two-way pagers and PDAs. There is an immediate need to establish a better method, or methods, for those involved in the growing use of these services to both report emergency incidences and to receive information and warnings of an emergency nature on a timely basis. It is also increasingly important that IP relay and video relay centers be considered as part of the infrastructure necessary to ensure access to 9-1-1 and emergency responders since many deaf and hard of hearing now have devices that can access such centers but not the E9-1-1 system.

## *Indirect E9-1-1 Access*

As you are aware, a good number of deaf and hard of hearing Americans are migrating from TTY-based relay services to IP and video-based relay services. At present, however, E9-1-1 access via both of these relay methods is waived – for VRS until January 2007, and for IP relay until January 2008. In November of 2005, the Commission adopted a Notice of Proposed Rulemaking seeking comment on methods for handling 9-1-1 calls via VRS and IP

Relay.[1] While there has been some progress made towards achieving 9-1-1 relay access since that time, it is critical that additional progress be expedited so that all deaf and hard of hearing consumers have the ability to make emergency calls via whatever relay service they choose to use. Even the current system of relying on landline TTYs for access to E9-1-1 services is far from perfect. There are still a number of PSAPs that do not have TTYs, despite the requirement of Title II of the Americans with Disabilities Act that PSAPs have in place equipment necessary to respond directly to TTY calls. As deaf and hard of hearing consumers increasingly migrate to newer relay services, it will become increasingly dangerous to rely merely on TTYs for emergency access, as more and more deaf and hard of hearing people abandon their landline TTYs in favor of IP relay and VRS. Moreover, people rarely think clearly during an emergency, and a basic premise of the E9-1-1 system is that consumers will be able to use their habitual communications devices to reach E9-1-1. Habitual users of relay services and instant messaging who are deaf and hard of hearing cannot be expected to successfully use a completely different mode of communications in an emergency.

Recent FCC requirements for E9-1-1 access over other technologies, such as wireless and VoIP services, have been rolled out in phases, with the first phase providing the most basic access and subsequent phases requiring more enhanced access, such as automatic location identification. A phased-in approach to the handling of 9-1-1 calls by IP-based relay services would similarly be acceptable; what is not acceptable is the absence of any mandates for people who are deaf and hard of hearing to have enhanced access to emergency services.

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[1] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Notice of Proposed Rulemaking, 20 FCC Rcd 19476 (2005).

The record on the FCC's November 2005 rulemaking is now complete. Thus, it is time for the Commission to act expeditiously to resolve the issues addressed in this proceeding, so that when the first of the relay waivers expires at the end of the year, rules requiring instant emergency relay access are in place. For example, the FCC could initially impose a requirement for IP relay and VRS providers to identify and give priority to 9-1-1 calls at some time in the very near future. The Commission could also establish subsequent deadlines for future phases of E9-1-1 disability access, such as mandates to automatically identify the user location and route the call to the appropriate PSAP. In addition, the Commission should work toward resolving issues presented in the new numbering proceeding on IP-based relay services, so that PSAPs are able to and can call back emergency callers in the event they are disconnected.[2]

## *Direct E9-1-1 Access*

It is also important for the Commission to recognize that deaf and hard of hearing consumers need redundant mechanisms that allow them to directly access the E9-1-1 system without going through a relay center. Currently, when a deaf person dials 9-1-1 from a TTY, the call goes through to the PSAP in the same manner as a conventional voice 9-1-1 wireline call that does not use relay services. These capabilities do not, however, exist for other types of text and video communications, upon which deaf and hard of hearing consumers have become increasingly reliant. For example, many deaf and hard of hearing consumers, especially those who are between the ages of 15 and 40 years old, do not own or use TTYs. Instead, they use newer technologies such as PDAs, pagers, email, and Internet-enabled relay captioned telephone service, video relay and IP relay services. Even if

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[2] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling and Further Notice of Proposed Rulemaking, FCC 06-57 (rel. May 9, 2006).

consumers using these technologies had access to E9-1-1 capabilities today (which they do not), PSAPs are unable to handle data/text- and video-based 9-1-1 or E9-1-1 calls over such new technologies, because they are not required to do so and subsequently have not upgraded their equipment or trained their employees accordingly.[3]

As a working group of the FCC's Network Reliability and Interoperability Council concluded almost a year ago, the recent, steady erosion in the ability of the deaf and hard of hearing to access 9-1-1 through new communications technologies has created "a dangerous situation"[4] that requires immediate action. When faced with a similarly "dangerous situation" encountered by hearing people last fall, the FCC acted swiftly to require interconnected VoIP providers to offer E9-1-1 service to hearing users. Rather than risk the senseless and unnecessary repetition of similar tragedies in the deaf and hard of hearing community, the E9-1-1 Stakeholder Council urges the FCC to act immediately to ensure that access to 9-1-1 keeps pace with evolving technologies and communications use patterns. Simply put, the FCC must mandate that, where E9-1-1 voice capabilities exist, data/text and video capabilities must exist as well, and these capabilities must include the same features that are available to voice users, including location identification and call-back information. This would be in keeping with Title II of the ADA,

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[3] As noted below, upgrading the 9-1-1 and emergency communications system to an Internet-protocol based one would allow the receipt of data/text and video (as well as voice) from any source, ranging from VoIP telephone users to deaf and hard of hearing consumers to telematics companies such as OnStar. Upgrading the 9-1-1 system is not a unique and special requirement being imposed on 9-1-1 by deaf and hard of hearing consumers.

[4] NRIC VII, Focus Group IB, *Report IV: Long Term Issues for Emergency/ E9-1-1 Services* at 4 (Sept. 2005), *available at*: <http://www.nric.org/meetings/docs/meeting_20051019/NRICVII_FG1B_Report_September_2005.pdf> ("New technologies offer the possibility of greatly improved access to 9-1-1 over the current situation, which is limited to access via analog TTYs and PSTN relay services. However, people with disabilities who have moved to the new broadband and wireless text technologies for communication find they are cut off from 9-1-1. This has become a dangerous situation.").

which requires local governments to ensure that telephone emergency number systems have technology that enables people with hearing and speech disabilities to have a direct line to local emergency services. While in the past, this has meant direct TTY access, Congress made clear that "future technological advances – such as speech to text services – may offer other means of affording direct and equally effective access for these individuals."[5]

Migration to a direct and expanded E9-1-1 access environment for deaf and hard of hearing consumers involves a multitude of technological, policy, and commercial issues. A clear and comprehensive understanding of the issues by regulatory authorities, E9-1-1 planners, and service providers is lacking, and it is this understanding that is a first step towards developing solutions. Consequently, the E9-1-1 Stakeholder Council strongly urges the Commission to act expeditiously on issues relating to direct E9-1-1 access for deaf and hard of hearing consumers using newer text and video-based technologies.[6] To this end, in October, the FCC should convene a group of interested parties to identify issues and proposals for a Notice of Proposed Rulemaking, to be adopted by the Commission by the end of 2006. At a minimum, participants in this event should include:

- larger national and regional wireline and wireless telecommunications carriers;
- VoIP providers;
- paging companies;
- relay service providers;
- handset and other equipment manufacturers;
- third-party E9-1-1 solutions providers (such as Intrado);

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[5] H. Rep No. 485, Part 2, 101st Cong., 2d Sess. 84-85 (1990).

[6] As an example, the ongoing work to develop a Next Generation (NG) 9-1-1 design by the National Emergency Number Association (NENA) includes recommended solutions to these issues.

- 9-1-1 system service providers;
- representatives of people with hearing or speech disabilities;
- state and local 9-1-1 emergency service representatives (and their national representatives, such as NENA); and
- representatives from responsible federal agencies such as the FCC, and the U.S. Departments of Homeland Security, Justice, and Transportation.

The Commission, with the help of this group, should rapidly seek to: (1) identify precisely the various types of direct E9-1-1 access that people with hearing or speech disabilities need; (2) conduct independent evaluation of each modality using typical users that reflect a cross section of the diversity of the deaf, hard of hearing, and speech impaired populations, and including a comparison by modality and comparison with use of TTY and use of a regular landline connection; (3) identify the technologies, services, and applications through which access should be offered; (4) define the technological, policy, and commercial issues involved in providing the needed access; and (5) conduct consumer outreach and education on ways that 9-1-1 may be accessed so the Commission can make informed decisions about which method best meets individual needs. Once identification of the relevant issues occurs, the Commission must seek comment on the solutions, and then take prompt action based on the public record. In addition, we recognize that these new E9-1-1 access requirements may raise funding issues that will need to be addressed by the Commission.

Multiple FCC proceedings have begun to address the need to ensure E9-1-1 access by deaf and hard of hearing consumers who use IP-based technologies,[7] but since 2004, none of the bureaus

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[7] *See, e.g., IP-Enabled Services, E-9-1-1 Requirements for IP-Enabled Service Providers*, Notice of Proposed Rulemaking, 19 FCC Rcd 4863 ¶¶ 50-57 (2004); *IP-Enabled Services*, Notice of Proposed Rulemaking, WC Dkt. 04-36, FCC 04-28 (March 10, 2004); In addition, as noted, this issue was the subject of considerable discussion by Working Group VII of the FCC's Network Reliability and Interoperability Council. Unfortunately, the issue

assigned to these proceedings have begun to resolve this issue. There needs to be a coordinated effort to achieve this goal; moreover, it is imperative that this be made an FCC priority. The Consumer & Governmental Affairs Bureau (CGB), with Office of Engineering and Technology (OET) engineers assigned to assist in this ongoing crucial endeavor, would appear to be well-suited to lead this effort.

We cannot stress enough the importance of this issue. As PSAPs proceed to gear up to provide E9-1-1 to VoIP and wireless callers, deaf and hard of hearing consumers fall further behind. In America, it is not acceptable to mandate E9-1-1 services to hearing people, while telling deaf people that they have to wait. All Americans are entitled to emergency access to communications at the same time – not just Americans who hear.

It is also essential to develop national 9-1-1 access training for people with speech disabilities (PSDs). While in some situations, PSDs can call 9-1-1 directly and simply leave the phone off the hook, in other instances, PSDs may need to access 9-1-1 through Speech to Speech (STS) in order to specify the type of help needed. Unfortunately, 9-1-1 operators are not trained to respond to calls from PSDs. It would not be cost effective to provide STS training to all 9-1-1 operators nationwide given the limited anticipated use of 9-1-1 by PSDs. A more cost effective approach would be to educate PSDs nationally to access 9-1-1 directly or through STS, depending on the situation. Such public education could be conducted through contacts with agencies serving PSDs and through radio and TV public service announcements.

As technology evolves, E9-1-1 access solutions for the deaf, hard of hearing and PSDs will continue to lag behind those of other Americans until systematic measures are instituted that

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gets lost in many of these proceedings, most of which are largely focused on E9-1-1 access for hearing people.

will require solutions for these consumers simultaneously with solutions for hearing consumers and people without speech disabilities. The goal is for any and all orders related to E9-1-1 to be all-in-one, so that the needs of all Americans, including Americans with disabilities, are uniformly and consistently addressed, and no one is left behind without access.

The E9-1-1- Stakeholder Council greatly appreciates your recognition of the importance of E9-1-1 access, and the willingness of you and your staff, including in particular CGB Bureau Chief Monica Desai, to meet with us to discuss these critical issues. We are eager to begin working with the Commission to move this process forward. Our next E9-1-1 Stakeholder Council meeting is on September 14, 2006, in Washington, DC, and we would greatly appreciate hearing from you before that meeting regarding our call for action and, specifically, our request for an industry summit this October. We are confident that your continued commitment and attention to these important matters will greatly improve emergency telecommunications services for people with hearing and speech disabilities now and in the future, and we look forward to working with you regarding the next steps in achieving these crucial goals.

Respectfully submitted,

Sheri Farinha Mutti, Chair
E9-1-1 Stakeholder Council

cc: The Honorable Michael Chertoff, Secretary, U.S. Department of Homeland Security
The Honorable Maria Cino, Acting Secretary, U.S. Department of Transportation

The Honorable Alberto R. Gonzales, Attorney General, U.S. Department of Justice

Monica Desai, Chief, Consumer & Governmental Affairs Bureau

Jay Keithley, Deputy Chief, Consumer & Governmental Affairs Bureau

Tom Chandler, Chief, Disability Rights Office, Consumer & Governmental Affairs Bureau

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